

33161

VOLUNTARY AGREEMENT

Between Crush and ANC 1C

200 SEP 20 AM 10:36

THIS VOLUNTARY AGREEMENT, made and entered into this 19th day of SEPTEMBER 2000 by and between ANC 1C and the legal entity Esagh, Inc. trading as Crush, (Hereinafter the "Applicant") and Kalorama Citizens Association (hereinafter the "Protestant").

WHEREAS, Applicant having filed an application with the District of Columbia Alcoholic Beverage Control Board (Hereinafter "ABC Board") for the issuance of a class CR License (application no. 33161) for the premises called Esagh, Inc. trading as Crush, 2323 18th Street N.W. Washington, DC 20009; and *ok PJ KCA*

Protestants po
WHEREAS, ~~ANC 1C~~ having timely filed before the ABC Board a protest opposing the granting of the referenced application; and

WHEREAS, in recognition of the ABC Board's policy of encouraging parties to a protested proceeding to settle their differences by reaching voluntary agreements, the parties hereto, being desirous of entering into a voluntary agreement, whereby, subject to the approval of the ABC Board, *ok PJ KCA*

1. Applicant will agree to adopt certain measures to address the ~~ANC's~~ concerns and to include this agreement as a formal condition of this application and *Protestants po*

ok PJ KCA
2. ~~ANC 1C~~ will agree to the issuance of the ABC License and withdrawal of the Protest. *PROTESTANTS*
Provided that the ABC's Board's approval of the referenced application is conditioned upon the Applicant's continuing compliance with the terms of this agreement.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings memorialized herein, the Parties hereby agree as follows:

1. Hours. The hours of operation shall be:

	Mon.-Thurs.	Friday	Saturday	Sunday
Inside:	<u>8am-2am</u>	<u>8am-3am</u>	<u>8am-3am</u>	<u>10am-2am</u>
Roof:	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Patios:	<u>8am-2am</u>	<u>8am-3am</u>	<u>8am-3am</u>	<u>10am-2am</u>
(Combine front and rear patios) If different from above, hours when alcohol will be served:				
Inside:	<u>8am-2am</u>	<u>8am-3am</u>	<u>8am-3am</u>	<u>10am-2am</u>
Roof:	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Patios:	<u>8am-2am</u>	<u>8am-3am</u>	<u>8am-3am</u>	<u>10am-2am</u>

2. Seating. Seating capacity will not exceed:

Interior Tables: 160-106 *ok pjkca* *(p)*

Interior Bar: 25

Patios: 25

(Combine front and rear)

Roof: -0-

3. Noise/Music/Dancing. Applicant will take every reasonable step to meet the ABC requirement that sound will not be heard outside the establishment. Applicant acknowledges familiarity with the noise requirements of the D.C. Noise Control Act and the regulations of the ABC Board and agrees to take whatever reasonable actions are necessary to comply with the law.

4. Trash/Rodents. (a) Applicant shall maintain regular trash/garbage removal service, regularly remove trash from the trash and dumpster area, and see that the trash and dumpster area remain clean. Applicant shall see that the dumpster cover fits properly and remains closed, except when trash is being added or removed, in order to eliminate odors and the pest and rodent population. If rodent infestation becomes chronic, Applicant will make every reasonable effort to eliminate the rodent population.

(b) Applicant will provide for the proper removal of grease and fatty oils from the establishment and will not deposit grease or fatty oils in the dumpster.

5. Exterior. Applicant shall assist in the maintenance of the alleyway and space in front of the establishment as needed and comply with all applicable D.C. regulations.

6. Items Specific to Establishment. Due to prior problems with the establishment under other ownership, Crush has closed its windows to minimize noise, installed new emergency exit lighting, has an excellent record of cooperation with Third District Police, and is upgrading the air conditioning system.

7. Bar/Pub Crawls. Applicant agrees not to promote or participate in bar/pub crawls, as a concession to the community but considers this a voluntary restriction on a legal business activity.

8. Consideration. Applicant will encourage employees and patrons to be considerate of neighboring residents at all times. Applicant will encourage employees leaving the establishment to keep conversations and noise down from 11 p.m. to 7 a.m.

9. Modifications. If Applicant desires to modify the terms of this agreement, prior to implementing the changes, Applicant shall receive written agreement from the ANC-1C after a majority of the commissioners vote in favor of the changes at a full public meeting, or a called special meeting. If no such meeting is held, the voluntary agreement remains in place.

10. Regulations. Applicant will operate in compliance with all relevant laws and regulations.

IN WITNESS WHEREOF, the Parties place their hands, on the date first written.

APPLICANT

ANC 1C


Esagh, Inc.

By: Salvatore J. Gioia

President

Print name: SALVATORE J. GIOIA

By: 

(Name and title, if any)

Print name: L. E. SOFTLI

Kalorama Citizens Association

By: 

(Name and title) LIQUOR LICENSING CHAIR FOR

Print name: KALORAMA CITIZENS ASSOCIATION

BEFORE
THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD

In the Matter of:

Esagh, Inc.
T/a Crush

Application for a Retailer's
Class CR - renewal
at premises

2323 18th Street, NW
Washington, DC 20009

Case No. 33161-00092P

**Linda Softli, Chair, Advisory Neighborhood Commission (ANC) 1C,
Peter Schott, Vice-Chair, Advisory Neighborhood Commission (ANC) 1C, and
Michael A. Gould, President, Kalorama Citizens Association
Protestants**

Salvatore J. Gioia, President, Applicant

**BEFORE: RODERIC L. WOODSON, ESQUIRE, CHAIR
VERA ABBOTT, MEMBER
CHARLES BURGER, MEMBER
LAURIE COLLINS, MEMBER
JUDY MOY, MEMBER
ELLEN OPPER-WEINER, ESQUIRE, MEMBER
AUDREY THOMPSON, MEMBER**

ORDER ON WITHDRAWN PROTEST AND VOLUNTARY AGREEMENT

This matter, having been protested, was scheduled for a roll call hearing on July 5, 2000, in accordance with D.C. Code Section 25-115(c)(5) (1999 Supp.), providing for the protestants to be heard. The Board received a timely protest letter from Linda Softli, Chair, ANC 1C and Peter Schott, Vice Chair, ANC 1C, dated June 19, 2000 and Michael A. Gould, President, Kalorama Citizens Association, dated June 29, 2000.

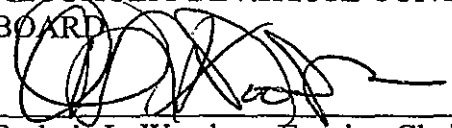
The official records of the Board reflect that the parties have reached an agreement that has been reduced to writing, and has been properly executed and filed with the Board. Pursuant to the agreement, dated September 19, 2000, the protestants have agreed to withdraw the opposition, provided, however, the Board's approval of the pending application is conditioned upon the licensee's continuing compliance with the terms of the agreement.

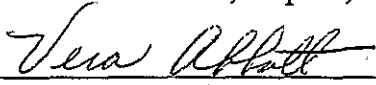
Esagh, Inc.
T/a Crush
Page 2


Accordingly, it is this 18th day of April 2001, **ORDERED** that:

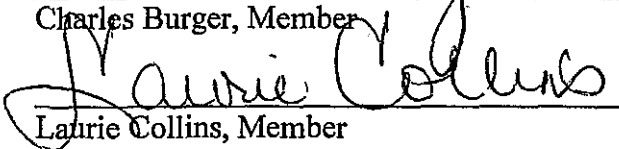
1. The opposition of Linda Softli, Chair, ANC 1C and Peter Schott, Vice-Chair, ANC 1C, and Michael A. Gould, President, Kalorama Citizens Association be, and the same hereby is **WITHDRAWN**;
2. The application of Esagh, Inc., t/a Crush, for a retailer's class CR license (renewal) at premises 2323 18th Street, NW, Washington, DC, 20009, be, and the same hereby, is **GRANTED**; and
3. The above-referenced agreement between the parties, be, and the same hereby is **INCORPORATED** and part of this **ORDER**; and;
4. Copies of this Order shall be sent to the Protestant and the Applicant.

DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL
BOARD

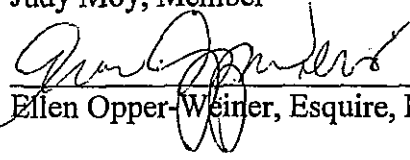

Roderic L. Woodson, Esquire, Chair


Vera Abbott, Member


Charles Burger, Member


Laurie Collins, Member

Judy Moy, Member


Ellen Oppenheimer, Esquire, Member

Audrey Thompson, Member

#33161

**COOPERATIVE AGREEMENT CONCERNING
SUBSTANTIAL CHANGE OF LICENSE
FOR SALE OF ALCOHOLIC BEVERAGES**

AGREEMENT, made and entered into this 9th day of August 2002, by and between Esagh, Inc., T/A Crush (hereinafter the "Applicant"), and Advisory Neighborhood Commission 1C (hereinafter the "Protestant"), witnesseth:

Whereas Applicant has filed an Application (No. 33161) with the District of Columbia Alcoholic Beverage Control Board (hereinafter the "Board") for the substantial change of a Class CR License for the premises known as Crush located at 2323 18th Street, NW, Washington, DC 20009,

Whereas Protestant has filed before the Board a protest opposing the granting of this Application,

Whereas in recognition of the Board's policy of encouraging parties to a protested proceeding to settle their differences by reaching cooperative agreements, the Parties hereto desire to enter into a cooperative agreement whereby (1) Applicant will agree to adopt certain measures to address the Protestant's concerns and to include this Agreement as a formal condition of its Application, and (2) Protestant will agree to the approval of the Application and withdrawal of the Protest *provided* that such Agreement is incorporated into the Board's order approving such Application, which order is thereby conditioned upon compliance with such Agreement,

Whereas Applicant has recently taken or intends to take certain measures designed to ameliorate Protestant's concerns,

Now, therefore, in consideration of the mutual covenants and undertakings memorialized herein, the Parties hereby agree as follows:

1. Public Space Permit. Protestant hereby acknowledges that, prior to the filing of the aforesaid protest, Applicant applied to and received from the District Government a public space permit to occupy approximately 85 square feet of public space in front of its premises as a sidewalk cafe, in an area measuring approximately 5'9" x 14'9". This public space area was in addition to approximately 64 square feet, located on the private property in front of Applicant's premises, in an area measuring approximately 4'4" x 14'9" and contiguous to the aforesaid public space, which was also to be used as part of the Applicant's sidewalk cafe.
2. Certificate of Use. Protestant hereby acknowledges that Applicant has paid its annual Certificate of Use fees for the years 2001 and 2002, and has diligently pursued the issuance of a Certificate of Use from the Department of Consumer and Regulatory Affairs (DCRA). Applicant hereby acknowledges that Protestant has actively assisted in attempting to secure issuance of such Certificate of Use. ~~Notwithstanding such~~

and
received
AM

AM

AM
⑧
~~efforts, the parties have been unable thus far to secure such Certificate of Use, but the Applicant agrees that it will continue its best efforts in this regard.~~

3. Public Space/Certificate of Use Renewals. Notwithstanding any approval by the ABC Board of the aforesaid substantial change Application pursuant to paragraph 5 or otherwise, and consistent with paragraph 2, Applicant acknowledges its obligation to renew such Certificate of Use annually, together with payment of its annual rent and other fees for public space use.
4. ABC Substantial Change. Subject to paragraphs 5, 6, and 7 below, Protestant recommends that the Board approve the Applicant's application for substantial change, subject to the following modification: *That the Applicant be permitted the use of up to five tables, with total seating capacity limited to 22 persons, and that access/egress from the sidewalk cafe to the establishment's interior or to the sidewalk not be blocked or impeded by any table, chair, or other object (other than the railing enclosing the sidewalk cafe).*
5. Modification. This Agreement can be modified only by the ABC Board, or by mutual agreement of all the parties with the approval of the ABC Board. If Applicant desires to modify the terms of this Agreement, then prior to implementing the changes, Applicant shall receive written agreement from ANC 1C after a majority of Commissioners shall have voted in favor of changes at a full public meeting, a quorum being present.
6. Regulations. In addition to the foregoing, Applicant will operate in compliance with all applicable public space laws and regulations.
7. Withdrawal of Protest. Consistent with paragraph 4 above, Protestant agrees to substantial change of the license and the withdrawal of its protest *provided* that this Cooperative Agreement is incorporated into the Board's order granting the aforesaid Application, which order is thereby conditioned upon compliance with such Cooperative Agreement.

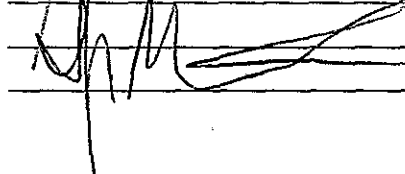
APPLICANT:
Esagh, Inc. T/A Crush

PROTESTANT:
Advisory Neighborhood Commission 1C

By:
Salvatore J. Gioia
President



By:
Andrew James Miscuk
Chairperson



**ANC 1C RESOLUTION ON
CRUSH "SUBSTANTIAL CHANGE" APPLICATION**

WHEREAS, Esagh, Inc. T/A Crush, 2323 18th Street, NW, has applied to the Alcoholic Beverage Control Board for a substantial change to its ABC license to permit the use of the area in front of its establishment as a sidewalk cafe with seating capacity for 25 persons (Application No. 33161), and

WHEREAS, said location is within the jurisdiction of ANC 1C, and

WHEREAS, ANC 1C has previously protested such substantial change on the ground that the Applicant was occupying public space without a proper permit for the use of such public space, and

WHEREAS, contrary to information supplied to ANC 1C by the District Department of Transportation, the Applicant has since demonstrated that in fact it obtained a public space permit for the area in question and that it has made best efforts to pursue the issuance of a Certificate of Use, which Certificate was not issued through no fault of the Applicant, and

WHEREAS, members of ANC 1C have examined the matter and discussed it with the Applicant,

NOW, THEREFORE, BE IT RESOLVED, that ANC 1C will withdraw its protest of the substantial change application upon the execution of a cooperative agreement with the Applicant on the following terms: *That the Applicant be permitted the use of up to five tables, with total seating capacity limited to 22 persons, and that access/egress from the sidewalk cafe to the establishment's interior or to the sidewalk not be blocked or impeded by any table, chair, or other object (other than the railing enclosing the sidewalk cafe,* and be it

FURTHER RESOLVED, that ANC 1C's withdrawal of the aforesaid protest is subject to and contingent upon the ABC Board's incorporation of the terms of said cooperative agreement in the Applicant's ABC license.

Offered by: Commissioner Roth

Seconded by: Commissioner Klempay

Vote: Approved 6-0

AYE Jovanka, Gibson, Wright, Roth, Klempay, Miscuk

ABSTAIN Johnson

Date: August 7, 2002

**BEFORE
THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of:

Esagh, Inc.
t/a Crush

Application for a Retailer's Class
CR License (substantial change)
at premises
2228 18th Street, N.W.
Washington, D.C.

Case no. 33161-02/108P
2002-247

Andrew James Miscuk, Chairman, on behalf of the Advisory Neighborhood Commission
1C, Protestant

Salvatore Gioia, President, on behalf of the Applicant

BEFORE: Roderic L. Woodson, Esquire, Chair
Vera Abbott, Member
Charles Burger, Member
Laurie Collins, Member
Judy Moy, Member
Ellen Oppen-Weiner, Esquire, Member
Audrey Thompson, Member

**ORDER ON WITHDRAWN OPPOSITION
AND VOLUNTARY AGREEMENT**

The application for a sidewalk café with the seating capacity of 25 was protested and came before the Board on July 24, 2002 in accordance with D.C. Official Code Section 25-601 (2000 Edition). Andrew James Miscuk, Chairperson, on behalf of the Advisory Neighborhood Commission 1C, filed timely opposition.

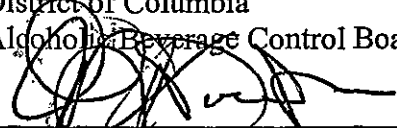
The official records of the Board reflect that the parties have reached an agreement that has been reduced to writing and has been properly executed and filed with the Board. Pursuant to the agreement, dated August 9, 2002, the protestant has agreed to withdraw the opposition, provided, however, the Board's approval of the pending application is conditioned upon the licensee's continuing compliance with the terms of the agreement.


Accordingly, it is this 16th day of October 2002, **ORDERED** that:

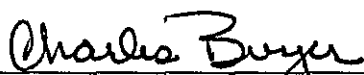
Esagh, Inc.
t/a Crush
Page two

1. The opposition of Andrew Miscuk, Chairperson, on behalf of the Kalorama Citizens Association, is **WITHDRAWN**;
2. The application for a sidewalk café with the seating capacity of 25 for Esagh, Inc. t/a Crush, retailer's class CR license (substantial change) at 2323 18th Street, N.W., Washington, D.C., is **GRANTED**;
3. The above-referenced agreement between the parties, is **INCORPORATED** as part of this Order; and
4. Copies of this Order shall be sent to the Protestant and the Applicant.

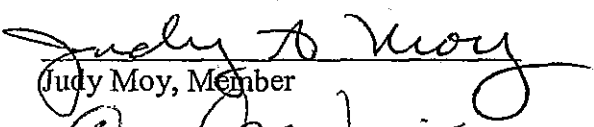
District of Columbia
Alcoholic Beverage Control Board

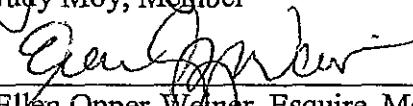

Roderic L. Woodson, Esquire, Chair

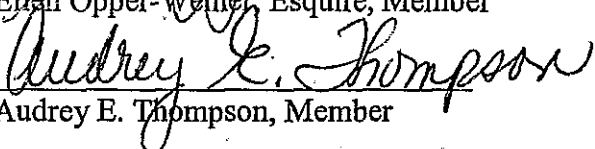

Vera Abbott, Member


Charles Burger, Member


Laurie Collins, Member


Judy Moy, Member


Ellen Oppenheimer, Esquire, Member


Audrey E. Thompson, Member